



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-1166
615-741-1831**

**July 16, 2012 - Minutes
Second Floor Conference Room, Andrew Johnson Tower**

The Tennessee Real Estate Appraiser Commission met July 16, 2012 at 10:05 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower in the second floor conference room. Chairperson, Nancy Point, called the meeting to order and the following business was transacted.

COMMISSION MEMBERS PRESENT

Nancy Point
Herbert Phillips
Norman Hall
Michael Green
Rosemarie Johnson

COMMISSION MEMBERS ABSENT

James E. Wade, Jr.
Erik Sanford (resigned 2/9/12)
Timothy Walton
Dr. Edward A. Baryla

STAFF MEMBERS PRESENT

Nikole Avers
Aminah Saunders
Donna Moulder

ADOPT AGENDA

Mr. Hall made the motion to accept the agenda and it was seconded by Ms. Johnson. The motion carried unopposed.

ELECTION OF OFFICERS

Mr. Phillips nominated Mr. Hall to be Chair and Mr. Green to be Vice-Chair. Ms. Johnson made a second to that recommendation. The voted passed unanimously.

MINUTES

The March 12, 2012 minutes were reviewed. Ms. Point made the motion to accept the minutes as written. It was seconded by Mr. Green. The motion carried unopposed. The Commission members congratulated Ms. Point on her fine chairmanship over the past year.

Experience Interviews

Rebecca Anne Place made application to upgrade from a registered trainee to become a licensed real estate appraiser. Mr. Hall was the reviewer and made a motion for approval of her experience request. Mr. Phillips made a motion to approve the experience request and Ms. Johnson seconded the motion. The motion carried unopposed.

David Brian Maker, made application to upgrade from a registered trainee to become a certified general real estate appraiser. Ms. Point was the reviewer and recommended approval of his experience request. Mr. Green made a motion to accept the recommendation. Ms. Johnson seconded the motion. The motion carried unopposed.

Education Committee Report

Dr. Baryla reviewed the education and submitted his recommendations to the Real Estate Appraiser Commission by email, as seen below. Ms. Avers read the recommendations into the record. Mr. Phillips made a motion to accept Dr. Baryla's recommendations. Ms. Point seconded the motion. The motion carried unopposed.

July 16, 2012 Education Committee Report

Course Approval

Course Provider	Course Number	Course Name	Instructors	Hours	Type	Rec'd
ASFMRA	1583	Advanced Appraisal Exam Preparation Course	Brent Stanger Justin Bierschwale	20	CE	1255-2-.06 Course content guidelines – continuing education: (b) <u>Unacceptable</u> real estate topics include the following: 7. (i) appraiser examination preparation Deny because content not consistent with allowable continuing education. The course content is good, but it is just not acceptable for a comprehensive exam review to be used for continuing education.
ASFMRA	1584	Sales Comparison Approach	Mark Lewis	8	CE	for
National Housing and Rehabilitation Association	1585	2012 Spring Developers Forum	Many	12	CE	For 3.5 hours. The content is quite good, but I could not map it to sessions other than the listed hours.
The Columbia Institute	1586	2012 Appraisal	George Harrison and guest	14	CE	for

		Summit & Expo, No. 200	speakers			
The Columbia Institute	1587	Write it Right, No. 148	George Harrison Diana T. Jacob Bryan Reynolds Bernerd Boarnet Martin Molloy Amelia Brown	8	CE	for
Appraisal Institute	1589	Marketability Studies: Advanced Considerations & Applications	Stephen Fanning	7	CE	for
Appraisal Institute	1590	Uniform Appraisal Dataset Aftereffects: Efficiency vs. Obligation	Dawn Molitor-Gennrich	7	CE	for

Individual Course Approval

Applicant	Certification Number	Course Name	Instructors	Hours	Type	Rec'd
Angela Russell	CG 4236	Property Obsolescence & Marketability Analysis Components in the Appraisal Report	Stephen F. Fanning	14	CE	for

Instructor Approval

Applicant	Course Number	Course Name	Hours	Type	Rec'd
John Smithmyer	1364	The Changing World of FHA Appraising	7	CE	for
John Smithmyer	1476	Deriving and Supporting Adjustments	7	CE	for
John Smithmyer	1556	Systems Built Housing: Advances in Housing for the New Millennium	7	CE	for
John Smithmyer	1564	2012-2013 National USPAP Update Equivalent	7	CE	for
Amelia Brown	1364	The Changing World of FHA Appraising	7	CE	for
Amelia Brown	1476	Deriving and Supporting Adjustments	7	CE	for
Amelia Brown	1556	Systems Built Housing: Advances in Housing for the New Millennium	7	CE	for
Amelia Brown	1564	2012-2013 National USPAP Update Equivalent	7	CE	for

Steve Maher	1364	The Changing World of FHA Appraising	7	CE	for
Steve Maher	1391	REO and Short Sale Appraisal Guidelines	4	CE	for
Steve Maher	1445	Introduction to Residential Green Building for Appraisers	4	CE	for

LEGAL REPORT:

1. 2012004861 There was no reviewer in this matter.

This complaint was filed by a licensee who alleged that the Respondent is identifying himself as a 'certified appraiser' as part of a political campaign. In support of the complaint the Respondent submitted copies of flyers where the Respondent identifies himself as a 'certified appraiser'.

The Respondent states that the complaint amounts to harassment by his political opposition. The Respondent states that he is a current member of The International Association of Assessing Officers. The Respondent states that any appraisals are done for tax appeals and the State Board of Equalization recognizes his designation. As evidence, the Respondent submitted a 2011 Initial Order from the State Board of Equalization which indicates that the Respondent appeared as witness on behalf of a taxpayer and provided a value range for the residential property.

Reasoning and Recommendation: T.C.A. 62-39-324 states, (a) "State certified real estate appraiser, state certified residential real estate appraiser or state licensed real estate appraiser may only be used to refer to individuals who hold the license or certificate" T.C.A. 62-39-104 states, "This chapter shall in no way affect any person who is registered with the state board of equalization...while performing any service of any nature for any taxpayer before any tax... authority." Counsel recommends that the complaint matter be CLOSED with a Letter of Instruction directing the Respondent to the applicable statutory language.

Vote: Mr. Green made a motion to amend the recommendation to a Letter of Warning. Ms. Point seconded the motion. The motion carried unopposed.

2. 2012000841 Mr. Wilson was the reviewer in this matter.

This complaint was filed by a consumer and alleged that the Respondent inflated a residential appraisal, which was performed as part of a divorce proceeding. The complainant states that the appraisal is an attempt to inflate the value by his spouse's attorney to increase any divorce settlement.

The Respondent states that he has been appraising for twenty-three (23) years and suddenly finds himself accused of very serious misconduct. The Respondent states that

the value conclusion is well supported and that no parties influenced the appraisal in any way.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- Neighborhood Section and zoning was inadequate and incorrectly reported. [SR 1-1(b)(c), SR 1-2(e)(i), SR 1-3(a), SR 2-1(a)(b)]
- Sales Comparison Approach contains a series of errors and omissions including non-documented adjustments, sales distance errors and very limited reconciliation to derive the indicated value. [SR 1-1(a)(b)(c), SR 1-4 (a), SR 1-6, SR 2-2(b)(viii)]

Licensing History: Certified Residential

12/31/1991 to present

Disciplinary History: 200704768 (Dismissed)

Reasoning and Recommendation: The reviewer found that the value conclusion was credible but that the appraisal contained a series of errors and omissions that undermined the overall reliability of the report. The Respondent has been licensed for twenty three (23) years and has no prior discipline therefore Counsel recommends the imposition of a Consent Order imposing a fifteen (15) hour Residential Report Writing course to be completed within one hundred and eighty (180) days of execution. The Respondent would receive continuing education credit for the corrective education.

Vote: Mr. Green made a motion to amend the recommendation to a Letter of Warning. Mr. Phillips seconded the motion. The motion carried unopposed.

3. 201200013 Mr. Michael Orman was the reviewer in this matter.

This complaint was filed by a consumer and alleged that the Respondent undervalued a residential property, demonstrated bias, used low sales and misrepresented certain property characteristics. The complainant states that as a result of the appraisal the loan was denied and the complainant would like the Respondent to pay for the necessary second appraisal.

In a lengthy and detailed response, the Respondent defended the overall report and acknowledges a labeling error on the map that would not affect the adjustments or value conclusion.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- Subject property was inadequately identified and analyzed. [SR 1-1(b), SR 1-2(e)(i)(iv)]
- Three (3) years sale history was not adequately reported. [SR 1-5(b), SR 2-2(b)(viii)]
- Subject property characteristics not adequately described or reported. [SR 1-2(e), SR 2-2(b)(iii)]
- Sales used were not properly analyzed, supported or verified.[SR 1-1(b)(c), SR 1-4(a), SR 2-1(b), SR 2-2(b)(viii)]

- Site value and cost approach not supported. Reconciliation does not address the quality or quantity of data in arriving at the final value. [Competency Rule, SR 1-1(a)(b)(c), SR 1-4(b)(i)(ii), SR 2-1(a)(b), SR 2-2(b)(viii), Scope of Work Rule]
- Addendum/ Location map of sales incorrectly reported. [SR 1-1(b)(c), SR 2-1(b)]

Licensing History: Certified Residential (06/05/2000 – present)

Disciplinary History: 200708678 (Dismissed)

Reasoning and Recommendation: The Respondent has been licensed since 2000 and has no prior disciplinary history. The reviewer found that the appraisal was not developed in compliance with applicable standards and requirements. As such Counsel recommends the imposition of a Consent Order imposing a thirty (30) hour Sales Comparison course to be completed within one hundred and eighty (180) days of execution. The Respondent shall not receive continuing education credit for the corrective education.

Vote: Mr. Phillips made a motion to accept the recommendation. Ms. Point seconded the motion. The motion carried unopposed.

4. 2012000341 This complaint was reviewed by Mr. Orman.

This complaint was filed by a consumer and alleged that the Respondent was lazy, inexperienced and undervalued the residential property.

In a lengthy and detailed statement the Respondent states that the complainant is upset that the appraised value did not support the sales price. The Respondent states that he has been appraising for fifteen (15) years. The Respondent defends all aspects of the appraisal report and indicates that the value conclusion is well supported. The Respondent states that he is committed to complying with all ethical and industry standards and is objective and impartial in his performance of appraisal assignments and always striving to reach a credible value conclusion.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- Physical information on rental comparable one (1) and three (3) was not correctly reported. [SR 1-1(b), SR 2-2(b)(viii)]
- Subject reported income not supported or reconciled. [SR 1-4(c)(iv)]
- Lack of analysis of Income Approach data and conclusions not reconciled and supported. [SR 1-4 (c) iii), SR 1-6(a), SR 2-2(b)(viii)]
- Conflicting information in final reconciliation. [SR 1-4(a), SR 2-1(b), SR 2-2(b)(viii)]

Licensing History Registered Trainee 01/31/95 – 10/18/1995
 Certified Residential 10/19/1995 - present

Disciplinary History 200209105 (Closed w/LOW), 200417977 (Dismissed)

Reasoning and Recommendation: The reviewer found that there are inconsistencies in some of the data utilized but that the Respondent adequately collected sale information and the report employs recognized methods and techniques for developing the sales comparison approach. Given the Respondent's licensing history and no prior discipline Counsel recommends a **Letter of Warning** regarding the issues noted by the reviewer.

Vote: Ms. Point made a motion to accept the recommendation. Mr. Green seconded the motion. The motion carried unopposed.

5. 2012004491 This complaint was reviewed by Mr. King.

This complaint was filed by a consumer and alleged that the Respondent undervalued a residential property by using inappropriate comparable properties.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- The reviewer found no violations of USPAP.

Licensing History Certified Residential 01/10/1992 - present

Disciplinary History 200801223 (Dismissed)

Reasoning and Recommendation: As the reviewer found no violations of USPAP Counsel recommends the **DISMISSAL** of the complaint matter.

Vote: Mr. Phillips made a motion to accept the recommendation. Ms. Johnson seconded the motion. The motion carried unopposed.

6. 2012000671 This complaint was reviewed by Mr. Orman.

This complaint was filed by a property owner and alleged that the Respondent is involved in misconduct involving appraising properties low to gain advantage in negotiating for the purchase of the properties. The complainant alleged misconduct involving six appraisals performed in 2011 for a specific lender. The complainant also alleges misconduct involving the Respondent's purchase of a property as well as possible racial or ethnic discrimination.

The Respondent states that the complaint is completely false and that after the appraisals were completed the complainant began calling the Respondent several times per week demanding reconsideration of the value conclusion. The Respondent states that some of the property appraised was located within the 100 year floodplain but the complainant indicated that there had been a recent survey which indicated that less of the property was in the flood plain. The Respondent states that he requested the complainant provide the new survey however the survey was not provided. The Respondent states that the complainant threatened to seek legal action against him as well as turn Respondent in to the Commission and during one such interaction, the complainant mentioned his ethnicity. The Respondent states that as to the allegation

Disciplinary History: None

Reasoning and Recommendation: T.C.A. 62-39-403 provides (a) *No person shall directly or indirectly engage or attempt to engage in business as an appraisal management company, to directly or indirectly engage or attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a registration issued by the commission under this part.* The company's website suggests that the respondent - company is holding itself out as an AMC. As such Counsel recommends the issuance of a **Cease and Desist Citation** imposing a five hundred dollar (\$500.00) violation penalty.

Vote: Mr. Phillips made a motion to amend the recommendation to a one thousand dollar (\$1,000.00) violation penalty. Ms. Point seconded the motion. The motion carried unopposed.

8. 2012007251 There was no reviewer in this matter.

This complaint was filed by TREAC staff and alleged that the Respondent failed to comply with the terms of a November 2011 consent order. The Respondent was required to pay a five hundred dollar (\$500.00) civil penalty and complete twenty eight (28) hours of corrective education within one hundred and twenty (120) days of execution. The Respondent states that he completed fourteen (14) hours of coursework within the specified time frame but was unable to locate the remaining two (2) courses within the specified time period. The Respondent states that with the assistance of TREAC staff the Respondent located the courses and completed all requirements of the consent order as of June 2012.

Licensing History: Certified Residential 01/31/1992 - present

Disciplinary History: 200207183, 2011013035 (Closed w/ Consent Order)

Reasoning and Recommendation: In the instant case, Counsel failed to include the automatic suspension language in the consent order, as such a new complaint was initiated. As the Respondent has complied with the terms of the Consent Order, Counsel recommends that the complaint matter be **CLOSED**.

Vote: Ms. Point made a motion to accept the recommendation. Mr. Phillips seconded the motion. The motion carried unopposed.

NEW BUSINESS

Director's Report

Ms. Avers gave a director's report to the Commission, which included updating the members on the staff shortages, discussion of the needed legislative changes, and need for newsletter articles for the Real Estate Appraiser Commission. She updated the members on the budget information for the past two fiscal years, the numbers of

complaints revolved in the last year that met the State performance measure of resolution within 180 days, and the number of complaints received each calendar year for the past 8 years. Finally, she updated the members on the numbers of licensees, courses and active temporary practice permits.

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Being no further business, the meeting was adjourned at 11:12 a.m.

Chairperson, Nancy Point

Nikole Avers, Executive Director